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THE SCARSDALE FORUM INC.

**Report of the Downtown Revitalization and Municipal Services Committees
On
Whether Scarsdale's Village Center Should Become a
Business Improvement District**

The Downtown Revitalization and Municipal Service Committees (the "Committees") propose the following Resolution and for adoption by the Forum:

RESOLVED, that the Report of the Committees, on whether the Village Center should become a Business Improvement District, be approved.

MAJOR CONCLUSIONS AND RECOMMENDATIONS

1. The Board of Trustees of the Village of Scarsdale should form a working group to consider the feasibility, geographical scope, project scope, budget, and related considerations for a proposed Business Improvement District ("BID") in the Village Center.
2. A "Steering Committee" should be formed, to include, among others, Village Center property owners, a representative from the Scarsdale Business Alliance together with representative tenants, the Village Mayor, the Village Manager, the Village Treasurer, a representative from the Downtown Revitalization Committee of the Scarsdale Forum, a representative from the Old Scarsdale Neighborhood Association and from the Overhill Neighborhood Association, and a representative homeowner from the various downtown condos and co-ops (Chateaux, Christie Place, 50 Popham, and others), to discuss the geographical scope, project scope, budget, and related considerations for a proposed BID in the Village Center.
3. These preliminary steps would not commit any of the parties to create a BID, but would be exploratory in nature and purpose solely to determine whether the relevant parties would like to consider implementation and funding of a BID.

DISCUSSION

BID Overview

Business Improvement Districts defined broadly are non-profit organizations formed by private property owners and businesses within a legally constituted district in a specific locality.¹ Historically, Scarsdale has not had experience with BIDs as such, but has engaged in the past in public/private partnerships, for example, the highly successful Christie Place Garage, condominium and retail space.² As another example, in 1999 a public/private partnership created a special group to upgrade the Village Center with better-quality sidewalks and lighting.³ In contrast, BID members pay a special tax to cover the expense of providing their BID with services and capital improvements beyond what the local government offers in their business environment.⁴

BIDs are not a new creation. They date back to the 1970s, when the vehicle was created as a means to pay for capital improvements and provide additional services to businesses in a given area lacking sufficient funding to meet their needs or desires.⁵ In the ensuing decades, BIDs have been used in nearly one thousand major cities and small towns throughout the United States, with 76 in New York City alone.⁶ The New York City BIDs are created in specified neighborhoods, with descriptive names such as Grand Central Partnership, Bryant Park Corporation, Fordham Road, Washington Heights, and DUMBO Improvement District, to name a few.⁷ They vary in size, but some are quite small, for example, the Meatpacking BID in Manhattan, measuring about .1 square mile.⁸

BIDs of Interest

There are numerous examples of BIDs in the tri-state area, neighboring villages in Westchester County and the nation worth noting here.

¹ https://en.wikipedia.org/wiki/Business_improvement_district.

² See article in Scarsdale10583, “Scarsdale Wins Award for Christie Place Development,” June 2, 2010 (Mayor Carolyn Stevens reported, “Scarsdale was awarded First Place in the area of Economic Development for the Christie Place development”) (<https://scarsdale10583.com/section-table/102-shout-it-out/856-scarsdale-wins-award-for-christie-place-development>).

³ Conversations with Scarsdale Forum, Downtown Revitalization Member Edward A. Morgan, Esq, Former Mayor of Scarsdale, and Rush Wilson, President of Scarsdale Improvement Corporation, in February 2022.

⁴ Project for Public Spaces, “A to Z of Business Improvement Districts” (Jan 1, 2009), <https://www.pps.org/article/bid-2>, citing [Starting a Business Improvement District, A Step-by-Step Guide](#) (New York City Dept of Small Business Services, c. 2002), http://www.nyc.gov/html/sbs/downloads/pdf/bid_guide_complete.pdf (hereafter “NYC BID Guide”).

⁵ For a good overview, see https://en.wikipedia.org/wiki/Business_improvement_districts_in_the_United_States; and <https://www.cityandstateny.com/politics/2019/10/are-business-improvement-districts-the-future-of-nyc/176844/>.

⁶ NYC Small Business Services, <https://www1.nyc.gov/site/sbs/neighborhoods/bids.page>.

⁷ NYC Small Business Services, BID Directory, <https://www1.nyc.gov/site/sbs/neighborhoods/bid-directory.page>.

⁸ http://maps.nyc.gov/doitt/nycitymap/?z=3&c=GISBasic&f=BUSINESS_IMPROVEMENT_DISTRICT.

For example, suburban Montclair, New Jersey received the 2015 Great American Main Street Awards® for the innovative revitalization of its commercial district, demonstrating what is possible using a BID. Although the village had existing performance arts venues, it transformed unused, dingy spaces into exciting commercial properties. Montclair focused on bringing restaurants and art to the area, and holding frequent events, including during the evening. See Appendix A for an illustrated review of Montclair’s downtown revitalization and additional examples of dynamic, vibrant BIDs that transformed commercial activity in other U.S. villages.⁹

Another example is bucolic Canandaigua on the shores of its eponymous lake in upstate New York, population around 10,000 – about half the population of Scarsdale, which refashioned its historic downtown business district:

“The BID is managed by a not-for-profit organization, the Downtown Canandaigua Business Management Association (DCBMA). Created to promote and improve downtown for residents, property owners, merchants and visitors. Created over 20 years ago, DCBMA is funded through property tax assessment, contracted services agreement and fundraising events. . . .The BID boasts an eclectic mix of more than 100 businesses from specialty shops to clothing to ethnic restaurants to service providers.”¹⁰

There are several BIDs on Long Island worth reviewing, such as Greater Port Washington on the North Shore,

“[T]he Greater Port Washington Business Improvement District (BID) was awarded \$50,000 in funding for street-scape improvements from the Nassau County Office of Housing and Intergovernmental Affairs through the County’s Community Redevelopment program. Combined with \$160,000 raised by the BID through a bond issue in 2002, many physical improvements have been made around the town. This includes all of the brick paving, tree wells, new trees and plantings, pedestrian benches and nautical-themed street signs to name a few.”¹¹

The Port Washington BID credited the New York Main Street Grant Program for another revitalization project:

⁹ J.S. Glisson, MainStreetNow (Summer 2015), https://higherlogicdownload.s3.amazonaws.com/NMSC/14414aa6-cd92-4a60-83bc-d336e4720b8b/UploadedImages/Awards/GAMSA/PDFs/GAMSA_2015_MSN.pdf.

¹⁰ <https://www.downtowncanandaigua.com/about>, and https://www.canandaiguanewyork.gov/index.asp?Type=B_BASIC&SEC=%7BD54D24E7-2DD9-419F-98E1-D1D4F6DA748E%7D.

¹¹ <https://portwashingtonbid.org/what-we-do/>.

“The BID was awarded a grant from New York State to be the licensed program administrator (LPA) for the incorporated Village of Manorhaven for facade and streetscape improvements of the village’s downtown commercial corridors. The state’s investment of \$85,000 directly stimulated more than a \$250,000 in actual shovel-in-the -ground projects, with more being done through private-sector initiatives.”¹²

Among the Five Towns, the informal group of villages and hamlets on the south shore of western Long Island in Nassau County, Cedarhurst’s downtown was not doing well until a BID was formed. With 283 storefronts attracting "mom and pop" stores with individual owners, and a low vacancy rate (in 2018), Cedarhurst revitalized its downtown with some of the same promotions and events that are held in Scarsdale, such as summer and Thanksgiving weekend sales, and reportedly raised \$80,000 annually through its BID.¹³

Closer to home, there is an established White Plains BID that has contributed to the revitalization of the city:

“The White Plains Downtown BID encompasses 142 properties with approximately 5.9 million square feet of office and retail space. Our membership includes small business owners, national retailers, Fortune 500 Companies, and industry leading commercial property owners. The BID's Board of Directors represents the diversity of business interests in the Central Business District and is committed to creating an environment conducive to economic development and business growth.”¹⁴

The White Plains BID engages in these typical BID activities, among others:

- Marketing and promotion of member businesses and sponsored events
- Streetscape improvements and enhancements
- Sidewalk cleaning, sanitation and beautification
- Special Events
- Advocacy on behalf of member businesses¹⁵

In contrast to the BIDs in NYC that each cover just a few blocks, the area covered by the White Plains BID is quite large.¹⁶

¹² Id.

¹³ J. Bessen, “Revving up an economic engine: Business Improvement District keeps Cedarhurst humming” (LI Herald, Jan 3, 2018), <https://www.liherald.com/stories/revving-up-an-economic-engine,98893>. See also Great Neck Business Improvement District, <http://www.shopgreatneck.com/about.php>.

¹⁴ White Plains Business Improvement District, <https://www.wpbid.com/about-bid>.

¹⁵ Id.

¹⁶ <https://www.wpbid.com/content/join-bid>.

The renaissance of the City of Yonkers in Westchester County could be attributed in large part to the initiatives of the Yonkers Downtown/Waterfront BID formed in 2002.¹⁷ The City boasts a wide spectrum of activities including this partial list:

“Sidewalk Sales, with Music in the Square on First Fridays; Producing and sponsoring Yonkers Riverfest, Main Street Films @ Dusk, Jazz, Blues and more at Dusk on the Yonkers Waterfront; Holiday tree lightings, pet parades and special events; Evolution Arts, River Day, Business Seminars, art and photography exhibitions; Producing and marketing Yonkers Downtown International Restaurant Week; Landscaping and beautification programs of all planters, the Getty Square Triangle, and other sites; advocacy for the specific needs of each business and the overall needs of the downtown.”¹⁸

Creating a BID in New York State

In New York State, BIDs are governed by New York General Municipal Law, Art. 19-A (2021) (the entire statute is reproduced as Appendix B).¹⁹ There are specific statutory requirements to implement a BID, including who must be included in the process, what types of projects can be adopted, and what types of fees can be levied to pay for the projects.

Exploration of the question whether Scarsdale stakeholders should pursue creation of a BID in the Village Center raises the following questions:

- What can a BID do?
- How is a BID formed?
- Who can object to a BID?
- What should be the geographical boundaries of a BID?
- How are BID improvements or enhancements funded?
- Who runs the BID?
- What are the advantages and disadvantages of implementing a BID?

This Report sets forth information on each of these issues, but does not fully endorse a specific course of action on all of them. Some issues are best left to a community-wide and business-led process.

¹⁷ <https://yonkersdowntown.com/about-the-yonkers-dwbid/bid-history/>.

¹⁸ Id., website excerpt.

¹⁹ <https://law.justia.com/codes/new-york/2021/gmu/article-19-a/>.

What Can a BID Do?

A BID can do anything a municipality can do. Here are examples from Project for Public Spaces of BID activities:

- Provide welcoming services and extra security for public spaces and private businesses. This can come through introducing "ambassadors" to assist visitors to the area, financing extra security guards, and setting up neighborhood watch groups.
- Advocate and lobby on behalf of downtown businesses.
- Generate financing for capital improvements (such as raising money to build a performance stage in a public park) or for infrastructure alterations (like funding historic street lighting).
- Commission research and marketing services, collect and analyze economic and demographic data, and promote businesses in the area.
- Embark on integrated planning efforts.
- Allow BID businesses to experiment with innovative practices, implement strategies at a faster pace than if they had to engage with the full mechanisms of local government, and tailor-make solutions to their own needs.²⁰

Activities Authorized by Statute

A lengthy list of the activities authorized under the New York statute is set forth in § 980-c.²¹ It is easy to understand how many of these improvements would benefit Scarsdale's Village Center:

“§ 980-c. Local legislative powers. Upon establishment of a district pursuant to the provisions of this article, the legislative body shall have authority to exercise the following powers with respect to such district, subject to the provisions of this article to:

(a) provide for district improvements located on or within municipally or district owned or leased property which will restore or promote business activity in the district:

- (1) construction and installation of landscaping, planting, and park areas;
- (2) construction of lighting and heating facilities;
- (3) construction of physically aesthetic and decorative safety fixtures, equipment and facilities;
- (4) construction of improvements to enhance security of persons and property within the district;

²⁰ <https://www.pps.org/article/bid-2>.

²¹ NY Gen. Mun. L. §980-c, <https://law.justia.com/codes/new-york/2021/gmu/article-19-a/980-c/>.

(5) construction of pedestrian overpasses and underpasses and connections between buildings;
(6) closing, opening, widening or narrowing of existing streets;
(7) construction of ramps, sidewalks, plazas, and pedestrian malls;
(8) rehabilitation or removal of existing structures as required;
(9) removal and relocation of utilities and vaults as required;
(10) construction of parking lot and parking garage facilities; and
(11) construction of fixtures, equipment, facilities and appurtenances as may enhance the movement, convenience and enjoyment of the public and be of economic benefit to surrounding properties such as: bus stop shelters; benches and street furniture; booths, kiosks, display cases, and exhibits; signs; receptacles; canopies; pedestrian shelters and fountains.

(b) provide for the operation and maintenance of any district improvement;

(c) provide for additional maintenance or other additional services required for the enjoyment and protection of the public and the promotion and enhancement of the district whether or not in conjunction with improvements authorized by this section, including:

(1) enhanced sanitation services;
(2) services promoting and advertising activities within the district;
(3) marketing education for businesses within the district;
(4) decorations and lighting for seasonal and holiday purposes; and
(5) services to enhance the security of persons and property within the district.

(d) enter into contracts to provide for the construction of accessibility improvements adjacent to public areas by businesses within the district which will increase access from public areas to such businesses for persons with disabilities and the general public and assist businesses in meeting requirements for removal of architectural barriers in existing facilities, pursuant to the Americans with disabilities act of 1990, as amended (P.L.101-336).”²²

It is important to note that the activities undertaken by BIDs are *in addition to* and not meant to replace municipal services.²³

²² Id.

²³ NY Gen. Mun. L. §980-j.(a), <https://law.justia.com/codes/new-york/2021/gmu/article-19-a/980-j/>.

One might think that all of these objectives could be met through a merchants' group, such as the Scarsdale Business Alliance. However, there are two distinct advantages to achieving business goals through a BID instead:

- 1) There is a steady and reliable stream of income; and
- 2) All businesses in the BID designated business district *must* pay the assessment; there are no free riders.²⁴

How Is a BID Formed?

Elements of the District Plan

The process begins with the drafting of a district plan. Under New York's statutory framework, the district plan is required to contain these elements²⁵:

- (a) a map of the district;
- (b) the written report or reports of the legislative body containing:
 - (1) a description of the boundaries of the district proposed for establishment or extension in a manner sufficient to identify the lands included;
 - (2) a description of the present and proposed uses of these lands;
 - (3) the improvements proposed and the maximum cost thereof;
 - (4) the total annual amount proposed to be expended for improvements, maintenance and operation;
 - (5) the proposed source or sources of financing;
 - (6) the proposed time for implementation and completion of the district plan;
 - (7) any proposed rules and regulations to be applicable to the district;
 - (8) a list of the properties to be benefited, and a statement of the method or methods by which the expenses of a district will be imposed upon benefited real property, in proportion to the benefit received by such property, to defray the cost thereof, including operation and maintenance. Notwithstanding any inconsistent provision of section nine hundred eighty-f of this article, the plan may provide that all or any class or category of real property which is exempt

²⁴ NYC BID Guide, https://www.nyc.gov/html/sbs/downloads/pdf/bid_guide_complete.pdf, p. 7.

²⁵ NY Gen. Mun. L. §980-a, <https://law.justia.com/codes/new-york/2021/gmu/article-19-a/980-a/>.

by law from real property taxation and which would not benefit from the establishment or extension of the district may nevertheless be included within the boundaries of the district but such property shall not be subject to any district charge;

(9) a statement identifying the district management association for the district; and

(10) any other item or matter required to be incorporated therein by the legislative body.²⁶

Creating and Filing the District Plan

The legislative body can on its own motion provide a resolution to prepare a district plan, or the district plan can be created upon the request of the CEO (in Scarsdale, the Village Manager), or an individual agency, or by a written petition signed by 51% of the owners of taxable real property in the area. The district plan is filed with the municipal clerk.

New York City, which currently has 76 BIDs broken down by specific neighborhoods and blocks,²⁷ has created the NYC BID Guide, a step-by-step guide for using the legislation and local rules to set up a BID in New York City.²⁸ Many of these suggested protocols would be applicable for Scarsdale. For example, the NYC BID Guide sets forth the initial planning steps:

1. contact the department of small business services (SBS)
2. determine whether or not to form a BID
3. form a steering committee
4. hold an initial steering committee meeting
5. develop a database of property owners and commercial tenants
6. conduct a needs assessment survey
7. draft the district plan²⁹

Outreach to the Community

The NYC BID Guide then lays out the next steps, involving community outreach as required under the New York statute:

8. send out the first informational mailing
9. hold the first public meeting

²⁶ Id.

²⁷ NYC BID Guide, <https://www1.nyc.gov/site/sbs/neighborhoods/bids.page>.

²⁸ NYC BID Guide, https://www.nyc.gov/html/sbs/downloads/pdf/bid_guide_complete.pdf.

²⁹ Id. page10.

10. hold the second public meeting
11. document results of support for the BID among the public³⁰

Steering Committee

The next priority, after determining that the area is “ripe” for implementing a BID, and that the affected businesses are amenable to the process, is to create a steering committee. The NYC BID Guide provides this information:

- Assemble a steering committee of individuals that have a stake in the proposed BID. Representatives from each of the following groups should be recruited to join the committee:
 - commercial/industrial property owners
 - commercial tenants (tenants may be retail, office or industrial businesses)
 - local elected officials
 - residents
 - community organizations (these may include: merchants associations, local development corporations, universities, hospitals and other not-for-profits)
- The steering committee should:
 - be comprised of a majority of property owners
 - represent the varied interests of the area
 - be able to reach a consensus on important issues
 - include individuals who are respected by other property and business owners not presently represented on the committee

The clear message conveyed by the guidelines is that community buy-in is essential for the BID to be accepted and to carry out its mandate.

Who Can Object to a BID?

Resolution, Filing and Notice of Hearing

The next steps in the process are for the legislative body, in this case the Village Board of Trustees, to enter a resolution in the minutes of its proceedings containing a copy of the district plan and any reports, file them with the municipal clerk, and provide a notice of hearing. The resolution must specify “the improvements proposed and the maximum cost thereof, the total annual amount proposed to be expended for

³⁰ Id.

improvements, maintenance and operation, and a statement indicating the rights of owners to object”³¹

As is evident from the foregoing requirement as to the contents of the resolution prior to a hearing on the district plan, the fully-formed plan, including expected annual costs, must be determined prior to public consideration of the plan. Thus, the plan is not an “on the fly” proposition, but rather one that requires considerable study and specificity in advance.

Section 980-e of the New York statute provides that, in certain circumstances, the BID proposal can be vetoed³²:

“if (1) owners of at least fifty-one percent of the assessed valuation of all the benefited real property situated within the boundaries of the district proposed for establishment or extension, as shown upon the latest completed assessment roll of the municipality, or (2) at least fifty-one percent of the owners of benefited real property within the area included in the district proposed for establishment or extension, so file their objections, the district will not be established or extended.”³³

Although persons or entities other than those taxed or benefited by the BID could presumably file objections with the municipality, their objections do not appear to have controlling weight under the statute.

What Should Be the Geographical Boundaries of a Village Center BID?

The geographical scope of a BID is set forth in the district plan. The boundaries in other communities vary greatly in size and shape, sometimes looking like gerrymandered political districts. For example, the White Plains BID includes Macy’s in the Galleria shopping mall, but none of the other stores in that mall.³⁴ Some BIDs are arranged along commercial streets, while others encompass multiple blocks.

At a minimum, it would seem advantageous for a Scarsdale BID to include the Village Center proper: the area bounded on the north by Christie Place, on the east by Chase Road, on the south by Popham Road, and the west by East Parkway, including the commercial properties on both sides of these boundary roads as well as Boniface Circle.

³¹ § 980-e (c), <https://law.justia.com/codes/new-york/2021/gmu/article-19-a/980-e/>.

³² § 980-e (b), <https://law.justia.com/codes/new-york/2021/gmu/article-19-a/980-e/>.

³³ Due to the fact that Scarsdale Improvement Corporation owns substantially more than 51% of the Village Center properties that would be taxed under a BID, SIC was contacted preliminarily to determine its amenability to the concept of a BID in the Village Center. Principals of SIC indicated that they were open to the idea generally, but subject to the amount of money that might be assessed.

³⁴ See the BID map at <https://wpbid.com/>.

Other potential areas within the scope of the BID might include one or more of the following areas:

- Chase Park
- The “Scarsdale Depot” area comprising the commercial properties along Popham Road and Depot Circle
- Scarsdale Avenue on both sides, from Popham Road to the border of Eastchester
- Freightway Garage site, including additional pedestrian and vehicular access
- Metro North Railway station area
- Garth Road, from Popham Road to the border of Eastchester

It is important to bear in mind when considering boundaries that (a) the BID has jurisdiction over only those properties within its boundaries, and (b) the BID cannot collect fees from 501(c)(3) entities or other non-taxpaying spaces or entities within its boundaries.³⁵

Another factor when considering potential boundaries for a BID is overlap with the Village’s Request for Proposals for a “Strategic Mobility & Placemaking Plan.” The Village recently selected a consultant, FHI Studio, to address placemaking and Complete Streets for the Village Center and other areas in Scarsdale.³⁶ If the Village is planning to tackle the many issues that affect the Village Center through incremental or even large-scale improvements funded via taxes and the issuance of bonds, then the BID should assume a collaborative role in reimagining the downtown.

How Are BID Improvements or Enhancements Funded?

The district plan establishes the assessments for the projects described in the plan. The charges are assessed against all benefited properties, except those that are tax exempt.³⁷ Although the preparation of the initial district plan may be delegated, the expense of the initial district plan is a municipal charge. After the plan is filed, any later extensions or contracts under the plan to provide for additional improvements or services are deemed to be part of the cost of the improvement, and the municipality must be reimbursed for any expenses it incurs in amending the plan.

If the district plan establishes funding as an ad valorem tax based on the assessed value of the property, payments are collected by the Village at the same time and in the same manner as other property taxes.³⁸

³⁵ § 980-a(b)(8), [https://law.justia.com/codes/new-york/2021/gmu/article-19-a/980-a/\(b\)\(8\)](https://law.justia.com/codes/new-york/2021/gmu/article-19-a/980-a/(b)(8)).

³⁶ Strategic Mobility & Placemaking Plan, <https://www.scarsdale.com/DocumentCenter/View/7661/Village-Center-Strategic-Mobility-and-Placemaking-RFP-PDF>.

³⁷ § 980-j(a) and (b), <https://law.justia.com/codes/new-york/2021/gmu/article-19-a/980-j/>.

³⁸ Id.

Projects for capital improvements to the Village may be funded through bonds or other municipal obligations; the principal and/or interest may be repaid in whole or in part through the assessments collected from the benefited properties.³⁹

Grants and other sources of funding are available. For example, several communities on Long Island as cited above have received funding from a variety of governmental sources and other support through county and inter-municipal arrangements.

Who Runs the BID?

The New York statute⁴⁰ contemplates that a not-for-profit district management association shall be formed, with voting and non-voting members. The association is governed by a board of directors, comprised of the following members:

- property owners, who must comprise at least 51% of the board members;
- tenants of commercial spaces and dwelling units within the district;
- a member appointed by the chief executive officer of the municipality (i.e., the Village Manager⁴¹);
- a member appointed by the chief financial officer of the municipality (i.e., the treasurer); and
- a member appointed by the legislative body (i.e., a member of the Village Board of Trustees).

Although the association may provide that the votes of board members who are property owners may be weighted in proportion to the assessment levied or to be levied against the properties within the district, no single property owner's vote may exceed 33 1/3% of the total number of votes.

What Are the Advantages and Disadvantages of Implementing a BID?

The fact that BIDs are established in every state in the United States and in other countries suggests that there is a considerable benefit to them. As a general matter, a BID enhances a neighborhood by offering additional services and improvements that are not funded by the municipality.

Former Scarsdale resident Dan Biederman was one of the first to harness the power of a BID to completely transform Bryant Park in Midtown Manhattan from a drug-infested, littered and dangerous part of the city into a lovely place with gardens, outdoor

³⁹ § 980-j(c), <https://law.justia.com/codes/new-york/2021/gmu/article-19-a/980-j/>.

⁴⁰ § 980-m, <https://law.justia.com/codes/new-york/2021/gmu/article-19-a/980-m/>.

⁴¹ Although not as specific as it could be, §§A318-1and 318-2 of the Village Code provide that the Village Manager is the Chief Executive Officer and Chief Administrative Officer of the Village.

seating, local performance groups, games of chess, and people relaxing on the grass enjoying the ambience.

“Biederman, who would go on to head the Grand Central Partnership and the 34th Street Partnership, is now seen as a pioneer in the field. Under his leadership, BIDs picked up litter, removed graffiti, borrowed money to fund capital projects, enhanced streetscapes, improved lighting, hired security guards to assist police, planted trees and took over public squares that had become run down.”⁴²

While Scarsdale is not remotely in the desperate position that Bryant Park was back in the 1980s, recent surveys conducted by the Downtown Revitalization Committee of consumers⁴³ and merchants⁴⁴ established that improvements for Scarsdale’s downtown are priorities among all stakeholders. Earlier surveys and consultants’ recommendations contained in the 2010 report, *An Update of the Village Center Component of the Village of Scarsdale Comprehensive Plan*,⁴⁵ made a similar assessment of the strong interest in Scarsdale to improve the Village Center. The fact that neither the Village nor local property owners have addressed these needs to date suggests that the additional governmental and financial resources that accompany a BID would be helpful in bringing about these desired enhancements.

The success of any BID that includes the downtown area of Scarsdale would depend on the participation of the majority (approximately 80%) owner of the retail properties in the Village center, Scarsdale Improvement Corporation; this entity has indicated a desire to consider the formation of a BID. While the Committees’ research did not identify a BID that has a comparable single, majority ownership profile as found in Scarsdale, such BIDs might exist and may be successful. However, Scarsdale's retail property ownership model may not lead to the full achievement of the expected benefits of a BID if budgetary shortfalls for desired BID projects were to occur. This outcome is minimized by the statutory requirement that each BID project be fully described in the district plan, along with the cost of each project, at the outset. In addition, alternative sources of funding such as grants or donations could be pursued to fund projects included in the district plan to minimize the burden on the primary property owners and their tenants.

⁴² G. Ponce de León, “Are business improvement districts the future of NYC?: BIDs helped end the bad old days. Can they do it again?” (FirstRead Newsletter, City & State NY, Oct 8, 2019), <https://www.cityandstateny.com/politics/2019/10/are-business-improvement-districts-the-future-of-nyc/176844/>.

⁴³ Scarsdale Forum, Downtown Revitalization Committee, 2018 Consumer Report and Survey, <https://www.scarsdaleforum.com/Reports/Download/719>.

⁴⁴ Scarsdale Forum, Downtown Revitalization Committee, 2019 Merchant Report and Survey, <https://www.scarsdaleforum.com/Reports/Download/861>.

⁴⁵ <https://www.scarsdale.com/DocumentCenter/View/122/An-Update-of-the-Village-Center-Component-of-the-Village-of-Scarsdale-Comprehensive-Plan-PDF?bidId=>.

The BID concept has its detractors. The most prevalent objection to BIDs is that they could price smaller businesses out of the area:

“Small-business owners, for instance, continue to be priced out of many neighborhoods due to the very improvements implemented by BIDs. By law, property owners must comprise a majority of a BID’s board members, which at times has led to questions around their motivations.”⁴⁶

Another concern is that the tax on property owners, which is passed along to their tenants, may price some tenants out of their leases. For instance, a BID was under discussion for the historic King Street area of Charleston, South Carolina at the end of 2021. This criticism was raised about the proposed BID:

“‘King Street is already uber expensive,’ said Stephen Buckman, an assistant professor of real estate development at Clemson. ‘A question that is begged out of this is will that levy, that extra tax, push people over the edge. There are already people operating on razor-thin margins.’”⁴⁷

In Scarsdale’s Village Center, the impact of Covid, including a reluctance of some consumers to shop in person, along with loss of employees and supply chain issues, have already stressed the market. Whether an additional tax would be deemed excessive to some local businesses is an issue that should be explored as part of the Scarsdale BID conversation.

BIDs have even been criticized for being undemocratic,⁴⁸ on the grounds that a small group of unelected property owners determine issues of development and services offered in the BID area.

“By removing the interests of small business owners as well as community members from the equation, property owners can remake a neighborhood as they see fit. Already these actors wield enormous power, but have had to deal with democratic mechanisms that would temper their vision. If the BID model continues to proliferate, the commons that make a city great

⁴⁶ Cited above, <https://www.cityandstateny.com/politics/2019/10/are-business-improvement-districts-the-future-of-nyc/176844/>.

⁴⁷ E. Whalen, “Some Charleston business owners, residents concerned by King Street business district plan” (The Post and Courier, Dec 28, 2021), https://www.postandcourier.com/news/some-charleston-business-owners-residents-concerned-by-king-street-business-district-plan/article_4e249474-677f-11ec-8255-ef73e688ca4e.html.

⁴⁸ For the contrasting view demonstrating that BIDs are not undemocratic, and that there are built-in ways to assure accountability, see B.R. Hochleutner, “BIDs Fare Well: The Democratic Accountability of Business Improvement Districts,” p. 374 (78 NYU L. Rev. No. 1, April 2003), <https://www.nyulawreview.org/wp-content/uploads/2018/08/NYULawReview-78-1-Hochleutner.pdf>.

could be completely at the disposal of a single class, one that's inherently opposed to discourse and organizing.”⁴⁹

The evaluation of any Scarsdale Village Center BID, therefore, should include consideration of potential negative impacts on the participants and the community.

While awaiting the apparently time-consuming process of creating a BID and having the district plan filed and vetted, stakeholders might achieve more modest improvements in general maintenance and cleanliness of sidewalks, awnings, and the like. Specifically, property owners could work with their tenants, enforcing the terms in store leases that require tenants to perform basic streetscape activities. The responsibilities of property owners and their tenants for general maintenance, safety, streetscape improvements, etc. should be clearly delineated in the leases. Although these appear to be contractual issues between the parties, query whether the Village might have a role in enforcing the terms, to the extent they affect public spaces.

MAJOR CONCLUSIONS AND RECOMMENDATIONS

Consumers and merchants have expressed their desire for improvements in the Village Center. One possible mechanism to achieve these improvements is to create a BID. While there are both positive and negative aspects associated with the formation of a BID, the positive aspects are sufficiently compelling to merit further study. The Scarsdale Forum's Downtown Revitalization and Municipal Services Committees endorse the formation of a Village Board working group, and eventually a steering committee comprised of, among others, Village Center property owners, a representative from the Scarsdale Business Alliance together with representative tenants, the Village Mayor, the Village Manager, the Village Treasurer, a representative from the Downtown Revitalization Committee of the Scarsdale Forum, a representative from the Old Scarsdale Neighborhood Association and from the Overhill Neighborhood Association, and a representative homeowner from the various downtown condos and co-ops (Chateaux, Christie Place, 50 Popham and others). These groups should address projects for the BID and their attendant costs, including how the funds for these costs would be assessed. All such efforts should be conducted with consideration given to the consulting

⁴⁹ M. Rivlin-Nadler, "Business Improvement Districts Ruin Neighborhoods," New Republic (Feb 19, 2016), <https://newrepublic.com/article/130188/business-improvement-districts-ruin-neighborhoods>, See also S. Bowen, E. Estus, V. Quintana, M. Zwerling, "Improvements for Whom? Business Improvement Districts and Their Impact on Communities" (Goldman School of Public Policy, U.C. Berkeley, May 20, 2019), <https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&cad=rja&uact=8&ved=2ahUKEwiM96XYk432AhUzk4kEHcvVCT0QFnoECCAQAQ&url=https%3A%2F%2Fwww.law.berkeley.edu%2Fwp-content%2Fuploads%2F2019%2F07%2FGoldman-School-BIDS-Report-May-2019.pdf&usg=AOvVaw1dgo3WH5ITiiWR8wjO64ua.>; S. Schaller, "Whose City? Fueling the Gentrification Machine through BID Urbanism" (Gotham Center for NYC History, Sept 3, 2020), <https://www.gothamcenter.org/blog/whose-city-fueling-the-gentrification-machine-through-bid-urbanismnbsp>.

project by FHI Studio for the Village Center, the “Strategic Mobility & Placemaking Plan” cited above.⁵⁰

Respectfully submitted by the following members of these Scarsdale Forum Inc. Committees:

Downtown Revitalization Committees

Susan Douglass, Chair
David Buchen
Lynne Clark
Lee Cohen
Scott Douglass
Madelaine Eppenstein
Tim Foley
Jon Mark
Eli Mattioli
Barry Meiselman
BK Munguia
Ken Rilander
Seth Ross
David Shulman
Lisa VanGundy

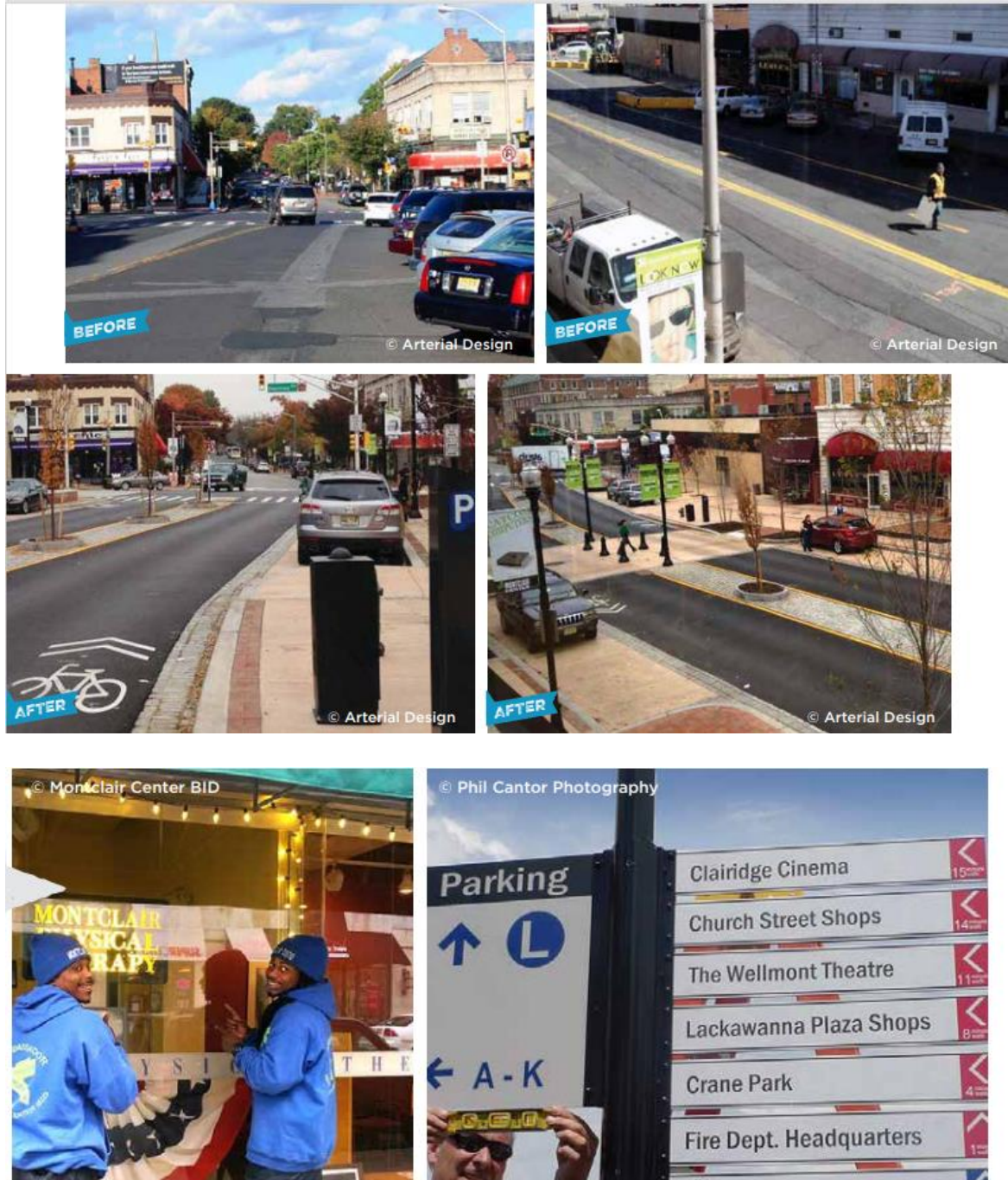
Municipal Services Committee

Madelaine Eppenstein, Chair
Susan Douglass
Kay Eisenman
Anne Hintermeister
Darlene LeFrancois-Haber
Eli Mattioli
Ken Rilander
David Shulman

⁵⁰ <https://www.scarsdale.com/DocumentCenter/View/7661/Village-Center-Strategic-Mobility-and-Placemaking-RFP-PDF>.

APPENDIX A

Montclair, NJ



Changes in perceived safety of the district and increased downtown amenities are two of the reasons for Montclair Center's growing desirability as a place to live. The Montclair Center BID began with a "Clean & Safe" agenda that is still an important part of its work. Montclair Center Ambassadors (above left) clean sidewalks, remove graffiti, tend plants, and help with holiday events; they are the constant face of the BID. Pedestrian wayfinding (above right), installed in 2013, reinforces Montclair Center's reputation as a "Walker's Paradise."

Rawlins, WY



Using a \$1.8 million state grant, Rawlins DDA/Main Street restored two dilapidated buildings (above left), one of which was in such a state of disrepair it had been nicknamed the "pigeon hotel." Today the buildings house the Rainbow Te-ton Entrepreneur Center (above right), which serves as a business incubator, a networking site for downtown merchants, and a community meeting space.



Using the Downtown Master Plan as a blueprint, the City implemented a \$1 million streetscaping plan (above right and top) that expanded parking downtown and added more public benches (above left) and other amenities to create a pedestrian-friendly environment.

APPENDIX B

<https://law.justia.com/codes/new-york/2021/gmu/article-19-a/>

2021 New York Laws - GMU - General Municipal Article 19-A - Business Improvement Districts

- [980 - Definitions.](#)
- [980-A - Contents of the District Plan.](#)
- [980-B - Local Adoption of Article.](#)
- [980-C - Local Legislative Powers.](#)
- [980-D - District Plan.](#)
- [980-E - Notice and Hearing.](#)
- [980-F - Establishment or Extension of the District.](#)
- [980-G - Review by the State Comptroller.](#)
- [980-H - Publication; Filing; Judicial Review.](#)
- [980-I - Amendments to the District Plan.](#)
- [980-J - Expense of the District.](#)
- [980-K - Tax and Debt Limitations.](#)
- [980-L - Expenditure of District Funds.](#)
- [980-M - District Management Association.](#)
- [980-N - Cooperative Operation and Management of Business Improvement Districts.](#)
- [980-O - Dissolution.](#)
- [980-P - Existing Districts.](#)
- [980-Q - Severability.](#)

Universal Citation: [NY Gen Mun L § 980 \(2021\)](#)

§ 980. Definitions. As used in this article:

(a) "Average full valuation of taxable real property" means the valuation obtained by taking the assessed valuation of taxable real property in the district as it appears upon the last completed and four preceding assessment rolls of the municipality and dividing each by the applicable state equalization rate as determined by the commissioner of taxation and finance pursuant to article twelve of the real property tax law for each of the assessment rolls and dividing the sum of the quotients thus obtained by five.

(b) "District" means a business improvement district established pursuant to this article.

(c) "District charge" means a levy imposed on behalf of the district as provided in the district plan.

(d) "District management association" means the association established pursuant to section nine hundred eighty-m of this article.

(e) "District plan" or "plan" means a proposal as defined in section nine hundred eighty-a of this article.

(f) "Legislative body" means the local legislative body empowered to adopt and amend local laws or ordinances.

(g) "Municipality" means a city, town or village within the state of New York.

(h) "Owner" means owner of record.

(i) "Tenant" means an occupant pursuant to a lease of commercial space or a dwelling unit, other than an owner.

§ 980-a. Contents of the district plan. The district plan shall contain the following:

(a) a map of the district;

(b) the written report or reports of the legislative body containing: (1) a description of the boundaries of the district proposed for establishment or extension in a manner sufficient to identify the lands included;

(2) a description of the present and proposed uses of these lands;

(3) the improvements proposed and the maximum cost thereof;

(4) the total annual amount proposed to be expended for improvements, maintenance and operation;

(5) the proposed source or sources of financing;

(6) the proposed time for implementation and completion of the district plan;

(7) any proposed rules and regulations to be applicable to the district;

(8) a list of the properties to be benefited, and a statement of the method or methods by which the expenses of a district will be imposed upon benefited real property, in proportion to the benefit received by such property, to defray the cost thereof, including operation and maintenance. Notwithstanding any inconsistent provision of section nine hundred eighty-f of this article, the plan may provide that all or any class or category of real property which is exempt by law from real property taxation and which would not benefit from the establishment or extension of the district may nevertheless be included within the boundaries of the district but such property shall not be subject to any district charge;

(9) a statement identifying the district management association for the district; and

(10) any other item or matter required to be incorporated therein by the legislative body.

§ 980-b. Local adoption of article. Every municipality shall be authorized to adopt a local law, subject to permissive referendum, providing that the provisions of this article shall be applicable to the establishment or extension of districts in the municipality.

§ 980-c. Local legislative powers. Upon establishment of a district pursuant to the provisions of this article, the legislative body shall have authority to exercise the following powers with respect to such district, subject to the provisions of this article to: (a) provide for district improvements located on or within municipally or district owned or leased property which will restore or promote business activity in the district:

- (1) construction and installation of landscaping, planting, and park areas;
- (2) construction of lighting and heating facilities;
- (3) construction of physically aesthetic and decorative safety fixtures, equipment and facilities;
- (4) construction of improvements to enhance security of persons and property within the district;
- (5) construction of pedestrian overpasses and underpasses and connections between buildings;
- (6) closing, opening, widening or narrowing of existing streets;
- (7) construction of ramps, sidewalks, plazas, and pedestrian malls;
- (8) rehabilitation or removal of existing structures as required;
- (9) removal and relocation of utilities and vaults as required;
- (10) construction of parking lot and parking garage facilities; and
- (11) construction of fixtures, equipment, facilities and appurtenances as may enhance the movement, convenience and enjoyment of the public and be of economic benefit to surrounding properties such as: bus stop shelters; benches and street furniture; booths, kiosks, display cases, and exhibits; signs; receptacles; canopies; pedestrian shelters and fountains.

(b) provide for the operation and maintenance of any district improvement;

(c) provide for additional maintenance or other additional services required for the enjoyment and protection of the public and the promotion and enhancement of the district whether or not in conjunction with improvements authorized by this section, including:

- (1) enhanced sanitation services;
- (2) services promoting and advertising activities within the district;
- (3) marketing education for businesses within the district;
- (4) decorations and lighting for seasonal and holiday purposes; and
- (5) services to enhance the security of persons and property within the district.

(d) enter into contracts to provide for the construction of accessibility improvements adjacent to public areas by businesses within the district which will increase access from public areas to such businesses for persons with disabilities and the general public and assist businesses in meeting requirements for removal of architectural barriers in existing facilities, pursuant to the Americans with disabilities act of 1990, as amended (P.L. 101-336).

§ 980-d. District plan. (a) The legislative body of any municipality other than a municipality having a population of one million or more may provide by resolution for the preparation of a district plan, upon its own motion, or at the request of the chief executive officer or an individual or agency designated by such officer, or upon the written petition, signed and acknowledged, of (1) the owners of at least fifty-one percent of the assessed valuation of all the taxable real property within the boundaries of the district proposed for establishment or extension, as shown upon the latest completed assessment roll of the municipality, and (2) at least fifty-one percent of the owners of real property within the area included in the district proposed for establishment or extension. In a municipality having a population of one million or more,

(b) The establishment or extension of a district shall be based upon the district plan filed in the office of the municipal clerk, except as provided in subdivision (c) of this section.

(c) In any city having a population of one million or more,

(d) All district plans shall conform with the requirements of this article. The legislative body may determine that the plan or any part of the plan, shall be prepared by, or under the supervision of municipal officers and employees to be designated by the legislative body, or by persons or firms to be employed for that purpose, provided, however, that in a municipality having a population of one million or more, such determination and designation shall be made by the chief executive officer. Except as otherwise provided in this article, the expense incurred for the preparation of the plan or part of the plan shall be a municipal charge.

(e) If the municipality shall thereafter establish or extend the district or provide the improvements or additional services or contract for the required services, the expense incurred by the municipality for the preparation of the plan or any part of the plan shall be deemed to be part of the cost of the improvement, or the rendering of additional services, and the municipality shall be reimbursed in the amount paid, or the portion of that amount which the legislative body, at a public hearing held pursuant to this article, shall allocate against the district.

§ 980-e. Notice and hearing. (a) After the filing of the district plan in the office of the municipal clerk, the legislative body may adopt a resolution and shall enter the same in the minutes of its proceedings. This resolution shall contain a copy of the district plan, any report of the planning commission or board, the fact that a district plan is on file in the municipal clerk's office for public inspection and the time when and the place where the legislative body will meet and hold a public hearing to hear all persons interested in the subject thereof

(b) The resolution shall also contain a statement that any owner of real property, deemed benefited and therefore within the district, objecting to the plan must file an objection at the office of the municipal clerk within thirty days of the conclusion of the hearing on forms made available by the clerk, and, further, that if (1) owners of at least fifty-one percent of the

assessed valuation of all the benefited real property situated within the boundaries of the district proposed for establishment or extension, as shown upon the latest completed assessment roll of the municipality, or (2) at least fifty-one percent of the owners of benefited real property within the area included in the district proposed for establishment or extension, so file their objections, the district will not be established or extended.

(c) The legislative body shall cause a copy of the resolution or a summary thereof to be published at least once in the official paper or a newspaper in general circulation in the municipality, the first publication to be not less than ten nor more than thirty days before the day set for the hearing required by this section. In addition, not less than ten nor more than thirty days before the date set for the hearing, the legislative body shall cause a copy of the resolution or a summary thereof to be mailed to each owner of real property within the proposed district at the address shown on the latest municipal assessment roll, to such other persons as are registered with the municipality to receive tax bills concerning real property within the proposed district and to the tenants of each building within the proposed district. If the legislative body publishes or mails a summary of the resolution, such summary shall include the business address of the municipal clerk, a statement that copies of the resolution shall be made available free of charge to the public, the improvements proposed and the maximum cost thereof, the total annual amount proposed to be expended for improvements, maintenance and operation, and a statement indicating the rights of owners to object pursuant to subdivision (b) of this section.

(d) The resolution may further state the place, other than the municipal clerk's office, where the district plan may be inspected in advance of the hearing, if the legislative body determines that, in the public interest, any additional place of inspection is necessary or desirable.

§ 980-f. Establishment or extension of the district. (a) Not earlier than thirty days after the conclusion of the last day of the public hearing held pursuant to section nine hundred eighty-e of this article, the legislative body shall determine:

(1) whether the notice of hearing for all hearings required to be held was published and mailed as required by law and is otherwise sufficient;

(2) except as otherwise provided in section nine hundred eighty-a of this article whether all the real property within the boundaries of the proposed district or extension will benefit from the establishment or extension of the district;

(3) whether all the real property benefited is included within the limits of the proposed district or extension; and

(4) whether the establishment or extension of the district is in the public interest.

(b) (1) If the legislative body shall determine the question of paragraph four of subdivision (a) of this section in the negative, or if the requisite number of owners shall have filed their objections as provided in section nine hundred eighty-e of this article, the legislative body shall adopt a resolution disapproving the establishment or extension of the district, stating the reasons for its determination and enter the same in the minutes of its proceedings. Thereafter no plan for the establishment or extension of a district to include any part of the property proposed to be

included in the disapproved district may be prepared as provided in section nine hundred eighty-d of this article until the expiration of at least one year from the date of disapproval.

(2) If the legislative body shall find that notice was incorrectly or insufficiently given or that, except as otherwise provided in section nine hundred eighty-a of this article, any part or portion of the real property within the boundaries of the proposed district or extension is not benefited thereby or that certain property benefited thereby has not been included therein, it shall call a further hearing at a definite place and time not less than ten nor more than thirty days after this determination. In the resolution calling such hearing, it shall specify the necessary changes, if any, to the boundaries of the proposed district or extension to be made in order that, except as otherwise provided in section nine hundred eighty-a of this article, all of the real property and only that real property as is deemed benefited shall be included within the boundaries of the proposed district or extension. Such a further hearing shall also be required in the event that the legislative body proposes to amend the district plan to reduce or provide additional improvements or services not included in the original plan prior to the establishment of the district. Notice of the further hearing shall be published and mailed in the manner provided in section nine hundred eighty-e of this article, except that, where boundaries are to be altered, this notice shall also specify the manner in which it is proposed to alter the boundaries of the proposed district or extension. The further hearing shall be conducted in the same manner as the original hearing.

(c) If and when the legislative body shall determine in the affirmative all of the questions set forth in subdivision (a) of this section, and provided that the requisite number of owners shall not have objected as provided in section nine hundred eighty-e of this article, it may adopt a local law approving the establishment or extension of the district as the boundaries shall be finally determined and the construction of the improvement or providing of the service in the district. Such local law shall become effective only upon compliance with section nine hundred eighty-g of this article.

(d) Upon the recommendation of the district management association and after a public hearing, the legislative body may adopt a local law at any time prior to or after the establishment of a district to change the method of assessment as set forth in the plan. Notice of such public hearing and a description of the proposed change shall be given in the manner set forth in section nine hundred eighty-e of this article.

(e) Notwithstanding the provisions of this article, the Town of Woodbury in the county of Orange

§ 980-g. Review by the state comptroller. (a) The state comptroller shall review as provided in this section: (1) the establishment or extension of a district; and (2) the amendment of a district plan pursuant to subdivision (c) of section nine hundred eighty-i of this article.

(b) Within twenty days after the adoption of a local law by a legislative body pursuant to section nine hundred eighty-f or subdivision (c) of section nine hundred eighty-i of this article, the chief executive officer, or, except in a municipality having a population of one million or more, other such officer of the municipality as the legislative body shall determine, shall forward the following information to the state comptroller at Albany, New York:

(1) an itemized statement of the then outstanding indebtedness of the municipality for all purposes, as evidenced by bonds, bond anticipation notes, capital notes, deferred payment notes and budget notes; the amount of budgetary appropriations for the payment of any outstanding indebtedness, whether or not appropriations have been realized as cash; the amount of indebtedness proposed to be contracted for the improvement, and the amounts, purposes and probable date of issuance of any bonds, bond anticipation notes, capital notes, deferred payments notes and budget notes which the municipality has authorized to be issued but which in fact have not been issued to date;

(2) a statement of the total assessed valuation of the taxable real property situated in the proposed district or extension of a district, as shown on the latest completed and four preceding assessment rolls of the municipality and of the amount of municipal real property taxes levied against such property in the preceding fiscal year;

(3) a statement of the average full valuation of the taxable real property of the municipality determined in accordance with the provisions of paragraph seven-a of section 2.00 of the local finance law; and

(4) a statement, the form of which shall be determined by the comptroller, attesting that the provisions of this article have been met, signed and verified by the chief executive officer.

(c) The state comptroller shall then review the information submitted pursuant to paragraphs one, two and three of subdivision (b) above to determine that the tax and debt limitations provided in section nine hundred eighty-k of this article will not be exceeded by the establishment or extension of the district.

(d) The state comptroller shall notify the municipality of his or her determination within sixty days of the receipt of the items specified in subdivision (b) of this section. Unless the state comptroller determines that the tax and debt limitations provided in section nine hundred eighty-k of this article will be exceeded by the establishment or extension of the district or that the statement required by paragraph four of subdivision (b) of this section does not comply with the provisions of such paragraph, the municipality may proceed with the establishment or extension of the district upon receipt of the notice from the state comptroller of his or her determination.

(e) Upon the municipality's compliance with any other requirements established by law, the local law enacted pursuant to section nine hundred eighty-f of this article shall become effective.

§ 980-h. Publication; filing; judicial review. (a) The municipal clerk shall cause a certified copy of the local law of the legislative body adopted pursuant to the provisions of this article establishing or extending any district, or increasing the maximum total amount proposed to be expended for the improvement in any district or extension, or changing the method of assessment, or authorizing the district to incur debt to provide for additional improvements or services within the district, to be duly recorded in the municipal clerk's office within ten days after such local law becomes effective. When so recorded this local law shall be presumptive evidence of the regularity of the proceedings for the establishment or extension of the district, of the proceedings instituted for the construction of any improvement and of all other actions taken in relation to it.

(b) Within ten days after the local law becomes effective, the municipal clerk shall, in addition to any other filing required by law, cause a certified copy thereof to be filed in the office of the state comptroller at Albany, New York, and within two weeks thereafter shall cause a copy of the local law or a summary thereof to be published at least once in the official paper or newspaper of general circulation in the municipality.

(c) This local law shall be final and conclusive unless a proceeding to review is commenced in accordance with this subdivision. Any person aggrieved by any local law adopted pursuant to this article may seek judicial review of the local law in the manner provided by article seventy-eight of the civil practice law and rules, provided the proceeding is commenced within thirty days from the date of the publication of the copy or summary of the local law pursuant to subdivision (b) of this section. No review shall be had unless the petitioner shall give an undertaking approved by the supreme court, or a justice thereof, as to form, amount and sufficiency of sureties, that, in the event of failure to modify the local law he will pay to the municipality, all costs and expenses as are incurred by it on account of the proceedings, as shall be determined by the court. In the event that upon this review there shall be any modification by the court of the local law, the court shall direct the modification by judgment which shall be final and conclusive, and the municipal clerk shall cause the judgment to be recorded and filed in the same places and manner as was the local law which was modified.

§ 980-i. Amendments to the district plan. (a) At any time after the establishment or extension of a district pursuant to the provisions of this article, the district plan upon which the establishment or extension was based, may, upon the recommendation of the district management association, be amended by the legislative body after compliance with the procedures set forth in this section.

(b) Amendments to the district plan which provide for additional improvements or services or any change in the method of assessment upon which the district charge is based, or an increase only in the amount to be expended annually for improvements, services, maintenance and operation may be adopted by local law of the legislative body, provided that the legislative body shall, after a public hearing, determine that it is in the public interest to authorize the additional improvements, services or increase in the maximum annual amount and that the tax and debt limits prescribed in section nine hundred eighty-k of this article will not be exceeded. The legislative body shall give notice of the hearing by publication of a notice in at least one newspaper having general circulation in the district specifying the time when and the place where the hearing will be held and stating the increase proposed in the maximum amount to be expended annually. The notice shall be published once at least ten days prior to the date specified for the hearing.

(c) Amendments to the district plan which provide for the district to incur indebtedness in order to provide for additional improvements or which provide for an increase in the total maximum amount to be expended for improvements in the district, may be adopted by local law of the legislative body, provided that the legislative body shall, after a public hearing, determine that it is in the public interest to authorize the district to incur indebtedness to provide for additional improvements or to increase the maximum total amount to be expended for improvements in the district and that the tax and debt limits prescribed in section nine hundred eighty-k of this article will not be exceeded. Notice of the hearing shall be published and mailed in the manner provided in section nine hundred eighty-e of this article. The local law adopted pursuant to this

subdivision shall not be effective until reviewed by the state comptroller in accordance with section nine hundred eighty-g of this article.

§ 980-j. Expense of the district. (a) The expense incurred in the construction or operation of any improvement or provision of additional services in a district pursuant to this article shall be financed in accordance with the district plan upon which the establishment or extension of the district was based. Services for which district property owners are charged pursuant to the plan must be in addition to or an enhancement of those provided by the municipality prior to the establishment of the district. The expense and cost apportioned to benefited real property in accordance with the plan shall be a charge upon each benefited parcel of real property within the district.

(b) The charge upon benefited real property pursuant to this article shall be imposed as provided in the district plan. If the formula includes an ad valorem component, this component shall be determined by the assessed value of each parcel as entered on the latest completed assessment roll used by the municipality for the levy of general municipal taxes. The charge shall be determined, levied and collected in the same manner, at the same time and by the same officers, as general municipal taxes are levied and collected.

(c) Any municipality which has established a district pursuant to this article, may, for the purpose of providing funds for making capital improvements within a district, issue and sell bonds or other municipal obligations as provided in the local finance law and other applicable laws and statutes. Principal and interest payments on these bonds or other municipal obligations may be made in whole or in part from the proceeds of charges imposed upon benefited real property within the district.

§ 980-k. Tax and debt limitations. (a) The aggregate amount of outstanding indebtedness that is incurred to provide funds for capital improvements pursuant to this article shall be chargeable against the municipality's constitutional debt limit and may not exceed ten percent of the amount allowable under that limit. The aggregate amount of outstanding indebtedness that is incurred to provide funds for capital improvements pursuant to this article and that is chargeable against the property within the district may not exceed seven percent of the average full valuation of taxable real property in the district.

(b) The district charge, exclusive of debt service, levied in a given year against real property in a district may not exceed twenty percent of the total general municipal taxes levied in that year against the taxable real property in the district. The district charge so levied shall be included in the total amount, if any, that the municipality is permitted by law to raise in that year by a tax on real property.

§ 980-l. Expenditure of district funds. (a) The proceeds of any charge imposed pursuant to this article shall be held by the chief fiscal officer and shall be separately accounted for in the books and records of the municipality. None of the proceeds collected pursuant to this article shall be used for any purposes other than those set forth in the district plan. These funds may be paid out for district purposes in accordance with the general procedures for payment of other municipal expenditures.

(b) All contracts for improvements, goods or services to be provided in the district shall be subject to all applicable provisions of the law relating to the letting of contracts by the municipality.

§ 980-m. District management association. (a) There shall be a district management association for each district established pursuant to the provisions of this article (which shall pursuant to the not-for-profit corporation law have one or more classes or membership, voting or non-voting) for the purpose of carrying out such activities as may be prescribed in the plan. Notwithstanding any inconsistent provision of paragraph (e) of section six hundred eleven of the not-for-profit corporation law, the certificate of incorporation or by-laws of such association shall provide for voting representation of owners of property and tenants within the district, and may provide that the votes of members who are property owners be weighted in proportion to the assessment levied or to be levied against the properties within the district, provided that in no case shall the total number of votes assigned to any one such member or to any number of such members under common ownership or control exceed thirty-three and one-third percent of the total number of votes which may be cast.

(b) The board of directors of the association shall be composed of representatives of owners and tenants within the district, provided, however, that not less than a majority of its members shall represent owners and provided further that tenants of commercial space and dwelling units within the district shall also be represented on the board. The board shall include, in addition, three members, one member appointed by each of the following: the chief executive officer of the municipality, the chief financial officer of the municipality and the legislative body. Provided, that in a city having a population of one million or more, The association may be incorporated prior to the effective date of any district established pursuant to this article.

(c) In addition to such other powers as are conferred on it by law, the district management association may make recommendations to the legislative body with respect to any matter involving or relating to the district.

(d) For such consideration as it may deem appropriate and consistent with the powers granted pursuant to section nine hundred eighty-c of this article, the legislative body may license or grant to the district management association the right to undertake or permit commercial activities or other private uses of the streets or other parts of the district in which the municipality has any real property interest.

(e) The district management association shall give written notice of meetings to all members of such association pursuant to section six hundred five of the not-for-profit corporation law notwithstanding the eligibility of members of the district management association to vote. The district management association shall also make available, upon the request of a member, minutes of such meetings.

§ 980-n. Cooperative operation and management of business improvement districts. (a) Whenever two or more municipalities have each created a business improvement district pursuant to this article, the municipalities may enter into, amend, and terminate agreements with each other for the operation and management of their respective business improvement districts, in accordance with this article and each district plan, on a cooperative basis, provided

that the business improvement districts are contiguous, and provided further that the goals and objectives of the districts are compatible.

(b) Any such agreement shall be approved by each participating municipality by a majority vote of its governing board and may contain provisions relating to the rights and responsibilities of the respective municipalities, a method for equitably allocating costs and other matters, consistent with this article, as may be reasonably necessary and proper to effectuate the cooperative operation and management of the districts. Nothing herein shall be construed as authorizing the participating municipalities to issue joint indebtedness and any indebtedness which has been heretofore issued by a municipality in connection with a business improvement district shall remain the sole responsibility of the issuing municipality.

(c) Municipalities which have agreed to operate and manage business improvement districts on a cooperative basis shall either establish a district management association for each business improvement district as provided in section nine hundred eighty-m of this article, or if agreed to by all of the participating municipalities, may establish a single cooperative district management association. Such cooperative district management association shall have the same powers and duties as provided in section nine hundred eighty-m of this article.

(d) When a cooperative district management association is established, the board of directors of such district management association shall be composed of representatives of owners and tenants within each district, provided, however, that not less than a majority of its members shall represent owners and provided further that tenants of commercial space and dwelling units within the districts shall also be represented on the board. The number of such representatives of owners and tenants from each district shall be in an equitable proportion as determined by agreement of the participating municipalities. The board shall include, in addition, three members from each participating municipality as follows: a member appointed by the chief executive officer of each participating municipality; a member appointed by the chief financial officer of each participating municipality; and a member appointed by the legislative body of each participating municipality.

(e) Where the municipalities which have agreed to operate and manage their business improvement districts on a cooperative basis decide to terminate their agreement, such cooperative district management association shall be dissolved, and shall be replaced by separate district management associations in accordance with section nine hundred eighty-m of this article.

§ 980-o. Dissolution. (a) Any district established or extended pursuant to the provisions of this article, where there is no indebtedness, outstanding and unpaid, incurred to accomplish any of the purposes of the district, may be dissolved by local law by the legislative body upon its own motion or upon the written petition of (1) the owners of at least fifty-one percent or more of the total assessed valuation of all benefited real property included in the boundaries of the district and (2) at least fifty-one percent of the owners of benefited real property within the area included in the district. The legislative body shall request and consider the recommendations of the district management association concerning any proposed dissolution; provided that if the association has not submitted recommendations to the legislative body within sixty days after request therefor, the legislative body may adopt any such proposed dissolution without

considering such recommendations. In the event of dissolution, all assets of the district shall revert to the municipality.

(b) A certified copy of the order of dissolution shall be filed with the state comptroller at Albany, New York.

§ 980-p. Existing districts. Any special improvement or assessment districts, or any business improvement districts established pursuant to article two-B of the general city law, or any districts having filed an application with the state comptroller as provided in such article prior to the effective date of this article, shall be subject to the provisions of this article but shall not be required to comply with any revisions of this article which are contrary to or more restrictive than those under which the district was established or proposed to be established as evidenced by an application filed with the state comptroller prior to the effective date of this article. Any reference to article two-B of the general city law or any section thereof in any state or local law, plan or agreement shall be deemed to be a reference to this article or the appropriate provision of this article.

§ 980-q. Severability. If any provision of any section of this article or the application thereof to any person or circumstance shall be adjudged invalid by any court of competent jurisdiction, such order or judgment shall be confined in its operation to the controversy in which it was rendered and shall not affect or invalidate the remainder of any provisions of any section of this article or the application of any part thereof to any other person or circumstance and to this end the provisions of each section of this article are hereby declared to be severable.